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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,199	04/26/2001	James E. Veres	MSFT-0245/154792.2	8823
41505	7590	06/20/2006	EXAMINER	
WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)			FOWLKES, ANDRE R	
ONE LIBERTY PLACE - 46TH FLOOR			ART UNIT	
PHILADELPHIA, PA 19103			PAPER NUMBER	

2192

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/843,199	<b>Applicant(s)</b> VERES ET AL.	
	<b>Examiner</b> Andre R. Fowlkes	<b>Art Unit</b> 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,5,8-10,35-40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 8-10, 35-40 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to the amendment filed 3/22/06.
2. Claims 1, 5, 8-10, 35-40 and 42 are pending. Claims 1 has been amended.  
Claims 2, 4, 6, 7, 11-16, 18-32, 34, 43-49, 51 have been canceled.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 5, 8-10, 35-40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over London Shrader et al., (London Shrader), U.S. Patent No. 5,870,611 in view of Yinger et al., (Yinger), U.S. Patent No. 5,960,204 (art made of record).

As per claim 1, London Shrader discloses **a system for managing application installation operations, a method of communicating with an application**, (col. 1:18-21, "This invention relates generally to electronic distribution of software in computer networks. More particularly, the invention relates to defining and constructing a proposed plan object for installing the software on the network"), **comprising:**

**- receiving from the application a call to set a property related to performing an application installation operation, wherein the application installation operation is a downsize operation** (col. 7:21-30, "The Installation, Configuration, Removal or Reinstallation commands attributes 106-112 provide the means to process the application-in-plan object on the workstation-in-plan objects in the workstation group-in-plan object in the Plan object. These attributes (i.e. properties) help to uniquely identify the application from other applications and to specify the commands to execute for the specified action, e.g., installation or configuration The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove, reinstall, or maintenance system using their respective commands", and col. 7:28-30, "The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove (i.e. downsize/uninstall), reinstall, or maintenance"),

**- receiving from the application a call to initialize the application installation operation** (col. 7:21-30, "The Installation, Configuration, Removal or Reinstallation commands attributes 106-112 provide the means to process the application-in-plan object on the workstation-in-plan objects in the workstation group-in-plan object in the Plan object. These attributes help to uniquely identify the application from other applications and to specify the commands to execute (i.e. initialize) for the specified action, e.g., installation or configuration The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove, reinstall, or maintenance system using their respective commands", and col. 5:53-54, "procedures

which (initialize an application installation operation and continue to) track the current state of installation”),

- **receiving from the application a call to finalize the application installation operation** (col. 7:21-30, “The Installation, Configuration, Removal or Reinstallation commands attributes 106-112 provide the means to process the application-in-plan object on the workstation-in-plan objects in the workstation group-in-plan object in the Plan object. These attributes help to uniquely identify the application from other applications and to specify the commands to execute (i.e. finalize) for the specified action, e.g., installation or configuration The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove, reinstall, or maintenance system using their respective commands”, and col. 5:53-54, “procedures which (finalize an application installation operation and report) .. the current state of installation”).

London Shrader doesn’t explicitly disclose that **if the application installation operation is not executed successfully by the application, receiving a call to abort the application installation operation.**

However, Yinger, in an analogous environment, discloses that **if the application installation operation is not executed successfully by the application, receiving a call to abort the application installation operation** (col. 12:26-31, “The loading subprocess determines 935 whether the installation of the application module or the current version of the application module was successful. If the installation was

unsuccessful, the installation is canceled 955 and a cancel flag is returned 965 to the process step calling for the execution of the application module”).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Yinger into the system of London Shrader to **receive a call to abort the application installation operation if the application installation operation is not executed successfully by the application**. The modification would have been obvious because one of ordinary skill in the art would have wanted to avoid an unstable or uncertain state by avoiding calls to an unsuccessfully installed program.

As per claim 5, the rejection of claim 1 is incorporated, and further London Shrader discloses that **said call to initialize the application installation operation is InitializeDownsize, and said call to finalize the application installation operation is FinalizeDownsize** (col. 7:28-30, “The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove (i.e. downsize/uninstall), reinstall, or maintenance”). The London Shrader system performs the functionality of this claim. The examiner notes that claiming a specific name for this exhibited functionality is non-functional descriptive material. Merely claiming Non-functional descriptive material does not make this claim patentable).

As per claim 8, the rejection of claim 1 is incorporated, and further London Shrader discloses **receiving a call from the application to get a property related to**

**performing an application installation operation** (col. 5:25-28, "A response file is a flat ASCII file that contains a set of responses to a corresponding set of questions (i.e. get property calls) asked by the program during the installation and/or configuration process.").

As per claim 9, the rejection of claim 1 is incorporated, and further London Shrader discloses that **said call to set a property is SetProperty** (col. 7:28-30, "The action type attribute 114 denotes the type of processing for this application, i.e. install, configure (i.e. set property), remove (i.e. downsize/uninstall), reinstall, or maintenance". The London Shrader system performs the functionality of this claim. The examiner notes that claiming a specific name for this exhibited functionality is non-functional descriptive material. Merely claiming Non-functional descriptive material does not make this claim patentable).

As per claim 10, this is a computer readable medium/product version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. Additionally, such a product is deemed to be inherent in the system, otherwise, it would be inoperative.

As per claim 35, this is another method version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited

as set forth above. For example, see the London Shrader/Yinger system (e.g. London Shrader col. 15:60-18:25 & Yinger col. 12:26-31).

As per claim 36, the rejection of claim 35 is incorporated, and further London Shrader discloses that **said call to set a property is SetProperty** (col. 7:28-30, "The action type attribute 114 denotes the type of processing for this application, i.e. install, configure (i.e. set property), remove (i.e. downsize/uninstall), reinstall, or maintenance". The London Shrader system performs the functionality of this claim. The examiner notes that claiming a specific name for this exhibited functionality is non-functional descriptive material. Merely claiming Non-functional descriptive material does not make this claim patentable).

As per claim 37, the rejection of claim 35 is incorporated, and further London Shrader discloses that **said call to SetProperty includes a parameter identifying APP\_PROPERTY\_GUID as the property that is being set** (col. 6:41-43, "The Group Container (i.e. a group of workstations belonging to a entity) 54 is used to hold one or more workstation Group objects (and their properties)").

As per claim 38, the rejection of claim 37 is incorporated, and further London Shrader discloses that **said call to SetProperty has a further parameter for pointing to a GUID for identifying the application that is the object of the downsize**



**operation** (col. 7:16-18, "The Short Name attribute 102 is used to uniquely identify the object (i.e. a GUID) within the Network Installation Program.").

As per claim 39, the rejection of claim 35 is incorporated, and further London Shrader discloses that **said call to initialize the application downsize operation is InitializeUnInstall** (col. 7:28-30, "The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove (i.e. downsize/uninstall), reinstall, or maintenance". The London Shrader system performs the functionality of this claim. The examiner notes that claiming a specific name for this exhibited functionality is non-functional descriptive material. Merely claiming Non-functional descriptive material does not make this claim patentable).

As per claim 40, the rejection of claim 35 is incorporated, and further London Shrader discloses that **said call to finalize the application downsize operation is FinalizeUnInstall** (col. 7:28-30, "The action type attribute 114 denotes the type of processing for this application, i.e. install, configure, remove (i.e. downsize/uninstall), reinstall, or maintenance". The London Shrader system performs the functionality of this claim. The examiner notes that claiming a specific name for this exhibited functionality is non-functional descriptive material. Merely claiming Non-functional descriptive material does not make this claim patentable).

As per claim 42, this is a computer readable medium/product version of the claimed method discussed above, in claim 1, wherein all claimed limitations have also been addressed and/or cited as set forth above. Additionally, such a product is deemed to be inherent in the system, otherwise, it would be inoperative.

### ***Response to Arguments***

5. Applicants arguments have been considered but they are not persuasive.

*In the remarks, the applicant has argued substantially that:*

- 1) The cited art does not disclose a downsize operation, at p. 8:16.

*Examiner's response:*

- 1) The examiner disagrees with applicant's characterization of the applied art. The cited art discloses a downsize operation, (i.e. configuring the application which includes the removal/addition of certain software and it's corresponding functionality), at col. 7:21-30, "The Installation, Configuration, Removal or Reinstallation commands attributes 106-112 provide the means to process the application-in-plan object on the workstation-in-plan objects in the workstation group-in-plan object in the Plan object. These attributes help to uniquely identify the application from other applications and to specify the commands to execute for the specified action, e.g., installation or configuration (i.e. downsize.) The action type attribute 114 denotes the type of

processing for this application, i.e. install, configure, remove (i.e. downsize), reinstall, or maintenance system using their respective commands.”

It is noted that the applicant has argued for their specific definition of downsizing at p. 8:21-24. However, the applicant has not claimed the argued definition. Since the term downsize is not a term with a consistent definition in the art, the examiner suggests that applicant include their specific description of downsizing in the claims to help further prosecution.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2192

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre R. Fowlkes whose telephone number is (571) 272-3697. The examiner can normally be reached on Monday - Friday, 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARF



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